IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5266 OF 2005

Shaikh Musa Babulal)..Petitioner

Versus

Yusuf Khan Abdul Razak Khan (since deceased) through Smt.Saira Yusuf Khan and others.)..Respondents

Mr.S.M. Gorwadkar for the Petitioner.

Mr.V.S. Gokhale for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 11TH OCTOBER 2005

P.C.:

. This Petition challenges the concurrent findings of fact of both the Courts below. Both the Courts below have found that the Petitioner has constructed a bathroom and has thereby made permanent alterations to the suit premises. Both the Courts have found that the original Respondent-Plaintiff has proved that the suit premises are bona fide required for the members of his family. The Appellate Court has found that the hardship to the Plaintiffs would be greater if the Suit is not decreed. The Appellate Court has found that there are nine members in the Plaintiff's family inclusive of his wife, three sons of marriageable age, a daughter who is frequently ill and his old mother in law aged 84 years who is

keeping indifferent health. All these facts persuaded the Appellate Court to hold that the premises are reasonable and bona fide required by the Plaintiff. There is no need to disturb the concurrent findings of both the Courts below. Hence, Writ Petition rejected.

2. On the application of Mr.Gorwadkar, learned Advocate for the Petitioner, the Petitioner may continue to reside in the suit premises for a period of one year from today on filing the usual undertaking. The undertaking to be filed within two weeks from today.